

Notice of Allowability

Application No.

10/680,587

Examiner

Nicole R. Kramer

Applicant(s)

FAUL, JOHN

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/28/06.
2. ☒ The allowed claim(s) is/are 6-10, 14 and 20-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

George Manuel
Primary Examiner

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 26, line 2, "claim 0" is amended to read --claim 20--.

2. The following is an examiner's statement of reasons for allowance:

As explained in the Office Action mailed 4/3/06, Examiner considers U.S. Patent Application Publication 2003/0181959 ("Dobak, III") to be the closest prior art of record. Dobak, III teaches a method for treatment of gastrointestinal disorders by electrical stimulation of various areas of the sympathetic nervous system, such as the celiac ganglia (see paragraph 0017). Dobak, III teaches that such stimulation may be used for treating obesity, as well as anorexia, bulimia, gastroparesis, irritable bowel syndrome, and other gastrointestinal disorders (see paragraph 0022). However, Dobak, III teaches stimulation of the celiac ganglia via implanted electrodes and thus fails to teach transcutaneous electric nerve stimulation (TENS) applied to the skin of a patient at particular claimed locations on the patient's spine. Further, it would not have been

Art Unit: 3762

obvious to modify the method of Dobak, III to utilize TENS because Dobak, III involves selective electrical activation of particular sympathetic neurons of a nerve.

In addition, a prior art search revealed several documents relating to transcutaneous electric nerve stimulation (TENS) for various gastrointestinal disorders, such as obesity or gastroparesis (such prior art includes the following articles: (1) "Stimulation of auricular acupuncture points in weight loss," Richards et al., Aust. Fam. Physician, 1998 July, 27 Suppl 2:S73-77; (2) "Study on the effect of transcutaneous electric nerve stimulation on obesity" Tian et al., Beijing Da Xue Xue Bao, 2003 June 18; 35 (3) 277-9 (Abstract provided in English); and (3) "The Effect of Transcutaneous Nerve Stimulation (TENS) on Gastric Electrical Activity," Furgala et al., Journal of Physiology and Pharmacology 2001, 52, 4, 603-610.). These articles teach the application of TENS for gastrointestinal disorders, but fail to teach stimulation of the celiac ganglia via particular claimed locations on the patient's spine (Richards et al. teaches stimulation of auricular points, Tian et al. teaches stimulation of acupoints, and Furgala et al. teaches stimulation via electrodes located on the non-dominant hand). Further, it would not have been obvious to modify the method of using TENS disclosed in the above articles to stimulate the celiac ganglia via particular claimed locations on the patient's spine because the articles involve stimulation of acupoints rather than stimulation of particular nerves.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

Art Unit: 3762

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole R. Kramer whose telephone number is 571-272-8792. The examiner can normally be reached on Monday through Friday, 8 a.m. to 4:30 p.m..

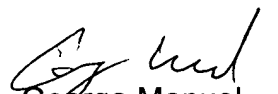
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NRK

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10/4/06


George Manuel
Primary Examiner